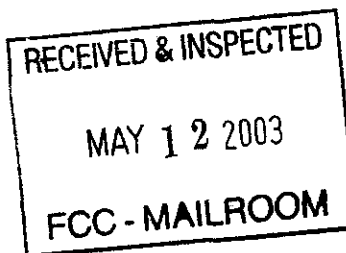




Atlanta Public Schools



Robert W. Beman  
Chief Information Officer

**REQUEST FOR WAIVER**

**Via Federal Express**

May 7, 2003

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

**Re: CC DOCKET NOS. 96-45 AND 97-21**

**Please Respond To:**

Dr. Beverly L. Hall  
Superintendent  
Atlanta Public Schools  
210 Pryor Street, S.W.  
Atlanta, Georgia 30303-3624  
blhall@atlanta.k12.ga.us  
Phone 404.827.8075  
Fax 404.827.8320

Mr. Robert Beman  
Chief Information Officer  
Atlanta Public Schools  
210 Pryor Street, S.W.  
Atlanta, Georgia 30303-3624  
rbeman@atlanta.k12.ga.us  
Phone 404.827.8250  
Fax 404.827.8486

**Documents Containing SLD Action On Appeal:**

Funding Year 2003 Form 471 Certification Postmarked Outside Of Window  
Date: March 12, 2003  
Funding Year 2003  
Applicant Name: Atlanta Public Schools  
Billed Entity Number: 127319  
Applicant's Form Identified: SERE2003  
Form 471 Application Number: 368262

No. of Copies rec'd 073  
LWA ABOVE

Funding Year 2003 Form 471 Certification Postmarked Outside Of Window  
Date: March 12, 2003  
Funding Year 2003  
Applicant Name: Atlanta Public Schools  
Billed Entity Number: 127319  
Applicant's Form Identified: APSEN2003  
Form 471 Application Number: 382100

Funding Year 2003 Form 471 Certification Postmarked Outside Of Window  
Date: March 12, 2003  
Funding Year 2003  
Applicant Name: Atlanta Public Schools  
Billed Entity Number: 127319  
Applicant's Form Identified: VOIP2003  
Form 471 Application Number: 382102

Funding Year 2003 Form 471 Certification Postmarked Outside Of Window  
Date: March 12, 2003  
Funding Year 2003  
Applicant Name: Atlanta Public Schools  
Billed Entity Number: 127319  
Applicant's Form Identified: BSLD2003  
Form 471 Application Number: 382121

**Nature Of Appeal:**

This is an Appeal from an adverse decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company. The Atlanta Public Schools (APS) formally requests a review of the above listed *Funding Year 2003 Form 471 Certification Postmarked Outside Of Window* letters.

According to the letters, the APS Form 471 Certifications were postmarked on February 7, 2003, which was after the 2003-2004 filing window that closed at 11:59 p.m. EST on February 6, 2003. Therefore, according to program rules, the APS applications will be held pending final review of those applications that were filed within the filing window. If funds are fully utilized

by applicants that filed within the window, then the APS application will be denied. APS requests a waiver of the deadline and equitable relief.

### **Facts**

E-rate, established to provide significant discounts on telecommunications, networking and Internet services to the poorest schools in the nation, has long assisted APS with obtaining affordable telecommunications and Internet access. APS represents the poorest students in the state of Georgia with the highest need for this type of assistance. Due to the poverty level and the status of the population served in the district, APS is usually funded at the eighty to ninety percent (80-90%) discount rate. Because of the urgent need in the area, APS has been awarded approximately forty percent (40%) of the funds awarded to all Georgia schools for the past two years.

On December 2, 2002, in accordance with SLD requirements, APS posted Form 470 Application Number 618750000430456 (Form Identifier ERE2003) to notify service providers that APS was seeking E-rate eligible products and services. The Form 470 correctly indicated that APS had issued request for proposals (RFPs) for the needed services. These RFPs were posted on the APS website. APS then waited the twenty-eight (28) days for vendor response.

On December 3, 2002, the SLD issued a *Warning to Funding Year 2003 Applicants and Service Providers Regarding Application Patterns That Violate FCC Rules* which stated that the "SLD has determined that a sizable number of Funding Year 2002 applications associated with a particular service provider [were] not consistent with Federal Communications Commission (FCC) regulations governing the Schools and Libraries Universal Service Support Mechanism" and that the SLD had begun to deny these application.<sup>1</sup> It went on to provide guidance for future applications and urged current applicants to

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<sup>1</sup> See <http://www.sl.universalservice.org/whatsnew/122002.asp#121202>.

avoid application processes that were inconsistent with Federal Communications Commission (FCC) rules.<sup>2</sup>

Issuance of this statement forced APS to adjust its 470 process and the procedures for the posted RFPs. APS already had a very rigid schedule. It had to wait the required twenty-eight (28) days, evaluate the proposals, choose service providers, obtain Board approval for the service providers, and obtain signed contracts, all before the 11:59 p.m. EST February 6, 2003 deadline for submission. APS made every effort to adhere to FCC rules and meet the required deadline.

As allowed by the SLD, APS had entered all of the substantive information for the Form 471 electronically by February 6, 2003. When APS attempted to certify the Form 471s late on February 6, 2003, they learned that certification required a PIN number which they did not have. In order to obtain a PIN number, APS had to apply via the SLD website. Although they attempted to get a PIN number, they could not obtain it before the deadline. APS proceeded to submit hard copies of the Form 471 Certifications in several different ways. They utilized Express Mail and Delta Dash. The time to assemble hard copies of the certifications caused APS to miss the deadline by various times, ranging from six minutes up to twelve hours. Nonetheless, all certifications were submitted on February 7, 2003. Moreover, most were received by the SLD on February 7, 2003, before many applications that were postmarked correctly arrived and before it would have reached the SLD had it been mailed at 11:58 p.m. on February 6, 2003.

### **Appeal**

APS requests that the SLD consider the Form 471 filed within the filing window. APS made every effort possible to meet the required deadline. Several circumstances, beyond its control, contributed to APS missing the deadline, in some instances by six (6) minutes, but in no instance, by more than twelve (12)

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<sup>2</sup> Id.

hours. This is based upon several circumstances that were beyond the control of APS.

### **I. Substantive Part Of Form 471 Was Timely.**

All information on the Form 471 was entered timely. The only issue was the certification, which amounts to a signature. In order to certify electronically, APS needed a PIN number. When APS realized that it needed a PIN number, it could not obtain one in time.<sup>3</sup> APS immediately assembled hard copy Form 471s and proceeded to file them. All of them were postmarked no more than twelve (12) hours late.

### **II. Changes In Rules.**

In the middle of the application process, the SLD issued a warning that several applicants may not be following the correct procedures. They urged those applicants to reevaluate their current applications and make adjustments where necessary. APS adhered to those warnings. Unfortunately, adequate time was not allowed for a school district like APS, without acquisition of additional resources, to make the necessary corrections and adjustments to processes and procedures. Along with SLD rules, APS must follow its own Board policies and procedures. These required the E-rate contracts to have Board approval, which can only be obtained once a month, unless there is an emergency and in fact special sessions were held, because of this issue. Again, APS made every effort to comply with SLD and Board policies, but in the process missed the deadline by no more than twelve (12) hours.

### **III. No Delay In Processing.**

APS submitted their certifications via Express Mail, next day service, and Delta Dash. Therefore, the SLD received the certifications on February 7,

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<sup>3</sup> SLD procedures did not allow a PIN number to be issued immediately.

2003. This was earlier than many applications that were postmarked by February 6, 2003. Since all APS applications were received in a timely manner, there was no delay in processing and no adverse effect on the SLD.

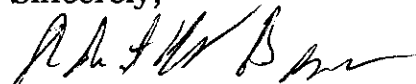
#### **IV. Equitable Relief.**

The children of APS are in urgent need of E-rate assistance. E-rate has allowed APS to implement its Technology Plan, provided ongoing support, and drastically improved the learning environment for its students. APS would not want a clerical mistake or misunderstanding, not obtaining a PIN number, to cause students to miss out on valuable technology resources.

#### **Summary**

The SLD states that the waiver standard generally requires a showing of circumstances that could not be avoided even with careful planning.<sup>4</sup> APS believes that the combination of the above stated conditions created a situation that they could not have been avoided. Please grant APS a deadline waiver and consider their applications filed within the 2003-2004 filing window.

Sincerely,



Robert W. Beman

xc: Dr. Beverly L. Hall  
Mr. Charles Engstrom  
Ms. Margaret Coleman  
Mr. Rodney Moore  
Ms. Betrice Scott  
Mr. Arthur Scott  
Mr. Richard Horton

Attachment(s)

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<sup>4</sup> Reference Area – Appeals Procedure.



ER 029346741 US



UNITED STATES POSTAL SERVICE®

Customer Copy  
Label 11-9 September 2002

Post Office Address

ORIGIN (POSTAL USE ONLY)		
PO ZIP Code 30321	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second <input type="checkbox"/>	Flat Rate Envelope <input type="checkbox"/>
Date In Mo. 2 Day 9 Year 03	<input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 2 PM	Postage \$ 17.85
Time In <input checked="" type="checkbox"/> AM 12:14 <input type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight lbs. 9.8 ozs.	Int'l Alpha Country Code	COD Fee Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials RC	Total Postage & Fees \$ 17.85

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Delivery Attempt Mo. Day	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
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Delivery Date Mo. Day	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature

CUSTOMER USE ONLY	
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Federal Agency Acct. No. or Postal Service Acct. No.	
NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	

TO: (PLEASE PRINT)	
SLD Form 471 c/o Mr. Smith 3833 Greenwood Lawrence, KS 66046	
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Delta Air Logistics

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<b>To: CONSIGNEE</b> <b>Mr. Smith / Sub Form</b> <b>3833 Greenway Dr.</b> <b>Lawrence, Kansas 66046</b> <b>203-8100</b>		<b>Shipper's Declaration:</b> I hereby certify that the particulars on the face hereof are correct and that the goods are properly described by name and in proper condition for carriage by air according to the applicable Dangerous Goods Regulations. <b>Signature:</b> <i>Arthur R. Scott</i> <b>Printed Name:</b> Arthur R. Scott <input type="checkbox"/> The shipment does not contain dangerous goods registered in air transport. <input type="checkbox"/> The shipment does contain dangerous goods registered in air transport.		<b>Origin City Code</b> <b>DASH</b> (Prepaid Only) <b>Delta Priority First Freight</b> <b>Delta Pet First</b> <b>Other Options</b>																			
<b>From: SHIPPER COMPANY</b> <b>Atlanta Public Schools / Atlanta</b> <b>Lat. Exene # 06068736</b> <b>2352 Gagnall Dr.</b> <b>Atlanta, GA 30315</b> <b>404-635-2815</b>		<b>Executed On:</b> ATLCO <b>8/7 0544 R. Daniel</b> <b>Signature of Issuing Carrier or its Agent:</b> <i>R. S. A.</i>		<b>Final Destination Via Delta Connection Carrier:</b> <input type="checkbox"/> EV <input type="checkbox"/> OH <input type="checkbox"/> OO <b>Transportation:</b> <input checked="" type="checkbox"/> <b>Other Charges:</b> <input type="checkbox"/> <input type="checkbox"/> Cash Check <input type="checkbox"/> Cargo Billing <input type="checkbox"/> FTA <input type="checkbox"/> GBL <b>Pick Up Charges:</b> Zone 8 <b>Delivery Charges:</b> Zone 105																			
<b>Destination:</b> ATL <b>Flight / Date:</b> 1559 <b>Via:</b> 815 <b>ATL</b>		<b>Received in good order and condition on:</b> <b>Signature of Consignee or his Agent:</b> <b>Printed Name:</b> <b>Handling Information:</b> <i>Delivered 1230 pm</i> <b>THIRD PARTY ACCOUNTING INFORMATION:</b>		<b>Advance Charge Description:</b> <b>Loc # 509850</b> <b>Other Charges / Description:</b> <i>Usade</i>																			
<b>Table:</b> <table border="1"> <thead> <tr> <th>No. of Pieces</th> <th>Weight</th> <th>Dimensions</th> <th>Charge</th> <th>Remarks</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>702</td> <td></td> <td></td> <td>under 1602</td> </tr> </tbody> </table>		No. of Pieces	Weight	Dimensions	Charge	Remarks	1	702			under 1602	<b>Table:</b> <table border="1"> <thead> <tr> <th>No. of Pieces</th> <th>Weight</th> <th>Dimensions</th> <th>Charge</th> <th>Remarks</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td>Printed Materials</td> </tr> </tbody> </table>		No. of Pieces	Weight	Dimensions	Charge	Remarks					Printed Materials
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